



## **CITY OF KIRKLAND**

Planning and Community Development Department  
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### **MEMORANDUM**

**Quasi-judicial**

**To:** Kurt Triplett, City Manager

**From:** Susan Lauinger, Project Planner  
Eric Shields, Planning Director

**Date:** March 24<sup>th</sup>, 2011

**Subject:** Central Park Tennis Club Expansion; FILE: ZON10-00022 (IIB)

### **RECOMMENDATION**

City Council considers the Process IIB Zoning Permit for the Central Park Tennis Club application and decides whether to pass a resolution to grant the application as recommended by the Hearing Examiner.

### **BACKGROUND DISCUSSION**

#### **IIB Process**

This application is reviewed under Process IIB in which the Hearing Examiner holds a public hearing then makes a recommendation to the City Council for the final decision.

This is a quasi-judicial process. Quasi-judicial processing is for permits that require a hearing, involve discretionary criteria for approval, and require the decision-maker to review the facts and applicable code to issue a decision (similar to a judge). The hearing of the Hearing Examiner is the hearing for the City Council.

The City Council has three options when reviewing the IIB process application:

- Grant the application as recommended by the Hearing Examiner
- Modify and then grant the application; or
- Deny the application

## **RULES FOR CITY COUNCIL CONSIDERATION**

The City Council shall consider the Zoning Permit application based on the record before the Hearing Examiner, and the recommendation of the Hearing Examiner. Process IIB does not provide for testimony and oral arguments. However, the City Council in its discretion may ask questions of the applicant and the staff regarding facts in the record, and may request oral argument on legal issues.

**Option to adopt resolution on April 5<sup>th</sup>, 2011:** Under the Council Rules of Procedure, Section 26, the City Council shall consider a Process IIB application at one meeting and vote on the application at the next or a subsequent meeting. The City Council may, by a vote of at least five members, suspend the rule to vote on the matter at the next meeting and instead vote on the application at the initial meeting.

In the alternative, the Council may direct the application be considered at a reopening of the hearing before the Hearing Examiner and specify the issues to be considered at the hearing.

Because there were no challenges to the Hearing Examiner recommendation, suspending the rule to vote at the next Council meeting and passing the attached Resolution approving the application may be something the Council wishes to consider.

### **Central Park Tennis Club Proposal** (Site map is included at the end of the memo)

The Central Park Tennis Club facility has been in existence since 1972, became part of the City of Kirkland with annexation in 1986, and currently has the following “members only” club facilities focused on tennis

- 2 existing indoor courts, and 6 outdoor (total of 14 courts)
- A 69 stall parking lot with access from 127<sup>th</sup> Ave NE
- A main facility with offices, workout facilities, services such as massage and child care, and a small café

The Tennis Club is proposing to expand its existing facility to include the following:

- one new 4 court indoor tennis building (31,739 square feet),
- a reconfigured expanded parking lot (from 69 stalls to 103 stalls), and
- a new entrance—closing off the entrance at 127<sup>th</sup> Ave NE and moving it to an easement called 125<sup>th</sup> Lane NE (private), which accesses directly off of NE 60<sup>th</sup> Street.

### Public Comment

During the public comment period, several residents of the Hunt Club development wrote in to comment about traffic issues that would be created by the new access to 125<sup>th</sup> Lane NE, which is also the main access to the Hunt Club properties and Commercial Equestrian Facility. Most of their concerns centered on traffic and especially traffic as it relates to Ben Franklin Elementary School drop off and pick up times. These written comments were further emphasized in the testimony at the public hearing (see enclosure 2 for minutes). Hunt Club residents spoke about traffic and safety issues during the hearing and showed a video of traffic related to the school.

The residents of the Flying Horseshoe Tracts, an equestrian development south of the Tennis Club, also wrote letters. Those letters are found in the Staff Addendum report (Exhibit C of Hearing Examiner Report). These residents wrote mostly in support of the Tennis Club proposal to close off their existing access at 127<sup>th</sup> Lane NE. They further wrote of issues that have come up in the past such as noise created by fans on the tennis buildings and tree retention. These items have been addressed in the staff report and staff report addendum (see Exhibits A and C of the Hearing Examiner report). These residents did not speak at the hearing.

There were no appeals of the SEPA determination and no challenges to the Hearing Examiner Decision.

### Public Hearing

The Hearing Examiner held an open record public hearing on February 17<sup>th</sup>, 2011 (see Enclosure 2 for minutes). City Staff, the applicant and residents within The Hunt Club testified during the hearing. Staff recommendations can be found in the hearing packet (See Exhibits A and C). The recommendations created by City staff center around mitigation of any adverse impacts to the surrounding neighborhood such as tree retention around the edges of the new building and additional landscaping and fencing around the new parking lot that would protect surrounding neighborhoods.

On February 26<sup>th</sup>, 2011 the Hearing Examiner recommended approval of the application with conditions per Staff's recommendation and, based on the testimony at the hearing, recommended the following three additional "conditions of approval":

1. The applicant shall revise the plans to provide direct access from the proposed parking lot to the adjacent vacant field owned by the Tennis Club. Such access shall be designed to City standards and subject to approval by the Public Works Department, and shall remain open at all times when the club is in operation.

2. During special Tennis Club events, the Club shall provide access to the vacant lot on the property for event parking via the gate on NE 60th St., and provide egress from the lot via the gate on 125th Ln. NE. Access from NE 60<sup>th</sup> St. must meet site distance requirements and be approved by the Public Works Department.
3. Under the direction of the Public Works Department, the applicant shall remove and replace the failed portions of the surface of 125th Ln. NE, and install a five-foot-wide sidewalk along the east side of 125th Ln. NE from NE 60th St. to the entrance to the new parking lot.

**ENCLOSURES** (below is an overhead view of the Tennis Club property)

**Note:** Due to the size of the reports and exhibits, the complete HE recommendation can be found at the following link:

<http://www.ci.kirkland.wa.us/Assets/Hearing+Examiner+Recommendation+ZON10-00022+-+2.pdf>

The two videos listed in the exhibits are on discs and located in the council study.

For your convenience the following attachments are included:

1. Hearing Examiner Recommendation (without exhibits)
2. Hearing Examiner Hearing Minutes
3. Resolution approving the application



Overhead view of project site in red above.

**CITY OF KIRKLAND  
HEARING EXAMINER FINDINGS,  
CONCLUSIONS AND RECOMMENDATION**

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**APPLICANT:** Larry Ho of Freiheit and Ho Architects, on behalf of the Central Park Tennis Club

**FILE NO:** ZON10-00022

**APPLICATION:**

**Site Location:** 12630 Northeast 59th Street.

**Request:** The Applicant seeks approval to build a new indoor tennis building housing four courts where the Tennis Club's existing parking lot is located, to limit the existing Tennis Club access on 127th Avenue Northeast to a service entrance and relocate the primary access entrance to 125th Lane Northeast, and to construct a new parking lot off of the new primary entrance.

**Review Process:** Process IIB, the Hearing Examiner conducts a public hearing and makes a recommendation to the City Council, which makes a final decision.

**Major Issues:** Compliance with Zoning Code criteria and applicable development regulations related to height and berming requirements, street improvements, and the proposed new access point for the Tennis Club.

**Department's Recommendation:** Approve with conditions

**PUBLIC HEARING:**

The Hearing Examiner held a public hearing on the application at 7:00 p.m. on February 17, 2011, in the Council Chamber, City Hall, 123 Fifth Avenue, Kirkland, Washington. A verbatim recording of the hearing is available in the City Clerk's office. The minutes of the hearing and the exhibits are available for public inspection in the Department of Planning and Community Development. The Examiner visited the site visit in advance of the hearing.

**PUBLIC COMMENT:**

The public comment period ran from September 30, 2010 to October 18, 2010. The Planning and Community Development Department (hereafter Department) received 10 comment letters during this period. (Enclosures 10-19 of Attachment 7 to the Department's Advisory Report

dated February 8, 2011 (hereafter Exhibit A))<sup>1</sup>. An additional comment letter was received in January of 2011 and is included as Attachment 8 to Exhibit A.

Public testimony and additional public comment letters were also submitted at the hearing, along with an addendum to the staff report. Exhibits C, D and E. A list of those who testified at the public hearing, and a list of the exhibits offered at the hearing are included at the end of this recommendation. The testimony is summarized in the hearing minutes.

Some public comments expressed support for the proposal, and there was widespread support for the multi-use path proposed along the north side of NE 60th St. Concerns expressed generally related to: 1) traffic and safety impacts from the Tennis Club's utilizing 125th Ln. NE as its primary access, particularly in conjunction with traffic and parking issues associated with the elementary school on NE 60th St.; 2) driving behavior of Tennis Club members; 3) hours of operation for the Tennis Club's accessory uses; 4) noise from building exhaust fans; 5) light from car headlights in new parking lot; and 6) screening for the new building.

## **FINDINGS AND CONCLUSIONS**

For purposes of this recommendation, all section numbers refer to the Kirkland Zoning Code (KZC or Code) unless otherwise indicated. After considering the evidence in the record and inspecting the site, the Examiner enters the following findings of fact and conclusions:

### **I. SITE DESCRIPTION**

#### **A. Site Development and Zoning:**

##### **1. Facts:**

- a. Size: The site consists of three separate parcels: Parcel A has 4.56 acres; Parcel B has 2.11 acres and Parcel C has 2.75 acres. Only parcels A and C are proposed for development; Parcel B will remain a vacant lot. The total acreage for the application is 7.31 acres.
- b. Land Use: The property is used as a commercial recreational facility with the main focus as a private membership Tennis Club with 14 existing courts (6 outdoor and 8 indoor). Existing structures include two indoor court buildings and a multipurpose building. There is also an outdoor pool that includes a hot tub and volleyball court. The facility provides other services such as childcare, a fully equipped fitness center, lessons, a meeting room, various classes relating to health and fitness and related services such as massage. It also includes a café that is open to the public, but has limited hours open most days, and some nights until 9:00 p.m.) and limited seating (7 tables).

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<sup>1</sup> At the hearing, the exhibits were mistakenly marked using numerals. They have been re-marked using capital letters of the alphabet in accordance with normal City practice. Thus, the exhibit formerly marked as Exhibit 1 is now Exhibit A, the exhibit formerly marked as Exhibit 2 is now Exhibit B, etc.

- c. Zoning: PLA 16 (Planned Area 16). Within this zoning designation, "Commercial Recreation Area and Use" is an allowed use.
- d. Terrain and Vegetation: The terrain on the site of the proposed indoor tennis court and parking lot slopes down from 526 feet along the west side to 514 feet on the east property line at 127<sup>th</sup> Ave NE.

The new building is to be placed in the existing parking lot, which is heavily treed. The arborist's report (Attachment 4 to Exhibit A) shows that, depending upon the results of a "root excavation," it may be possible to save 17 of the 96 trees in the area that will be impacted by the new building and parking lot. (See tree inventory, Attachment 5 to Exhibit A.)

- 2. Conclusions: Terrain and vegetation are factors in this application. Parcel size, land use, and zoning are not.

B. Neighboring Development and Zoning:

- 1. Facts: (Attachment 6 to Exhibit A provides an overhead view of the surrounding development).
  - a. North: To the north of the Tennis Club are Ben Franklin Elementary School and a single family neighborhood called Silver Spurs with a zoning designation of RSX 35 (35,000 square foot minimum lot size).
  - b. East: 128<sup>th</sup> Ave NE, NE 59<sup>th</sup> Street, and 127<sup>th</sup> Avenue NE border on the east of the Tennis Club site. Bridle Trails State Park is across 127<sup>th</sup> Ave. NE from a section of the Tennis Club property; single family homes are across 127<sup>th</sup> Ave. NE from the proposed location for the new structure. The existing entrance and parking lot are at the corner of 127<sup>th</sup> Ave NE and NE 59<sup>th</sup> street.
  - c. South: To the south of the Tennis Club is a small neighborhood called Flying Horseshoe Tracts, which has a zoning designation of PLA16 and includes 12 lots, all approximately 35,000 square feet in size. 127<sup>th</sup> Avenue dead-ends in this neighborhood, which is surrounded on two sides by Bridle Trails State Park.
  - d. West: The Hunt Club Equestrian Center and 20 associated single family lots border the Tennis Club to the west. The existing lots are large, although the master plan allows lots of 14,500 square feet due to the equestrian center and facility. The equestrian center within this neighborhood has a large arena and barn and associated offices, parking lot and circulation. The Hunt Club equestrian center and residences use a 30-foot-wide, two-lane private access easement, developed as 125<sup>th</sup> Lane NE, across Tennis Club property as their primary access.
- 2. Conclusion: Neighboring residential and school development is a factor in the consideration of this application.

II. HISTORY

A. Facts:

1. The Central Park Tennis Club was established in 1972 under the jurisdiction of King County as a member-owned Club on the current site.
2. In 1973, the Tennis Club granted a 30-foot, non-exclusive easement for ingress, egress and utilities, from NE 60th St. across the west edge of its property, for the benefit of what ultimately became the Hunt Club Equestrian Center and residences. (*See Exhibits I, J and K.*) The easement is along what is now known as 125th Lane NE, which has been improved with brick pavers and is privately maintained.
3. The City of Kirkland annexed the neighborhood in 1986 and created zoning regulations for it (PLA16).

B. Conclusion: The proposed access along 125th Pl. NE is available to the Central Park Tennis Club.

III. STATE ENVIRONMENTAL POLICY ACT (SEPA)

A. Facts:

1. A Determination of Non-significance (DNS) was issued for the proposal on January 5, 2011. *See Environmental Checklist, Determination, and additional environmental information included in Attachment 7 to Exhibit A, which also includes most of the public comment letters (Enclosures 1- 21).*
2. The DNS was not appealed.

B. Conclusion: The City has satisfied SEPA requirements.

IV. CONCURRENCY

A. Facts: The Public Works Department reviewed the application for concurrency (*see Attachment 7 to Exhibit A, Enclosures 5 and 7*). The application passed a concurrency test on September 19, 2010.

B. Conclusion: The City satisfied the requirements for Concurrency review. The applicant each should follow the requirements set forth in Attachment 7 to Exhibit A.

V. DEVELOPMENT REGULATIONS

A. General Layout and Site Development Standards

1. Facts:

- a. The site development standards for a Commercial Recreation Area and Use in the PLA16 zone are set forth in KZC 60.182.030 (Attachment 9 to Exhibit A).
- b. The minimum lot size is one acre, and the proposal and existing tennis facility will be located on 7.31 acres.
- c. Twenty-foot yards are required on all sides, and the plans show that the proposed building will be set back further than the required 20 feet.
- d. A maximum lot coverage of 80 % is allowed, and the plans show that proposed coverage is 66.3%.
- e. Height is limited to 38 feet above average building elevation, and the application shows that the new structure would be 33.7 feet above average building elevation.
- f. In this location, special regulation 3 for the PLA 16 zone requires that structures exceeding 25 feet above average building elevation place the ground floor below existing grade to the extent possible and screen it with a vegetative earthen berm.

The proposed structure will exceed 25 feet above average building elevation on all sides, but the Public Works Department has indicated that berming would not be allowed on top of the existing 30-foot-wide utility easement along the southern property line that is closest to the new indoor tennis structure.

- g. Special regulation 4 requires a 20-foot-wide sight obscuring landscape buffer along the west and south perimeters of the property. This exceeds the otherwise applicable landscape requirements for the proposal under KZC 95.42. The landscape plans show the required buffer and use of a variety of trees and shrubs with characteristics that can achieve the goal of obscuring the building from neighboring properties along both perimeters. (See Attachments 10 through 13 to Exhibit A.)
- h. Special regulations 3 and 4 reflect an intent that structures the property, particularly those above 25 feet in height, be obscured and buffered. The applicant proposes to meet the intent through the landscape buffer noted above and use of the following additional measures:
  - (1) Setbacks will be increased from the required 20 feet to between 27 and 40 feet on all sides.
  - (2) The structure will be placed 12 feet below grade at the west side, but finished grade on the east side will generally follow existing grade, which is built up approximately one to two feet. This allows for retention of the maximum number of existing mature trees for use as

a vegetative screen along 127<sup>th</sup> Ave. NE this and as an alternative to berming for mitigation of building height. It also maintains vehicular access to the back of the structure. Because additional evaluation is required to determine whether these trees can be saved, the applicant has supplied alternative conceptual views of the east side. One shows retention of existing trees; the other shows a vegetated earthen berm.

- i. Special regulation 1 allows uses on the property to “include activities such as: indoor and outdoor tennis courts, club house, swimming pool, and other sport court games and ancillary commercial recreation activities.” The proposal would expand the primary use of the property as a tennis club and would have little, if any impact on the range or intensity of the allowed accessory uses.
- j. Special regulation 2 provides that “[h]ours of operation may be limited to reduce adverse impacts on a residential neighborhood.” The Tennis Club operates from 5:45 a.m. to 10:30 p.m. on Mondays through Saturdays, with the last scheduled court time at 8:30 p.m. It opens at 8:00 a.m. on Sundays. Times for the ancillary commercial services vary, but they are provided within Club hours. The application does not propose a change in the hours of operation.
- k. Special regulation 6 provides that “[v]ehicular and pedestrian circulation to and from the property shall be coordinated with the other properties in the vicinity to the maximum extent possible.”
  - (1) Primary vehicular access for the Tennis Club will change from 127<sup>th</sup> Ave NE to 125<sup>th</sup> Lane NE.
  - (2) The transportation impacts of the proposal, including trip generation calculated in accordance with the current edition of the ITE Trip Generation Manual, and access (LOS, queuing and sight distance), were evaluated in a traffic impact analysis (TIA) prepared pursuant to SEPA. (Attachment 7 to Exhibit A, Enclosures 5 and 6)
  - (3) According to the TIA, the proposal would generate 13 PM peak hour trips and 155 net new daily trips. The level of service at the intersection of NE 60th St. and 125th Ln. NE would not change, and sight distances at the same intersection would meet City standards.
  - (4) The City's Transportation Engineer reviewed the traffic impact analysis and approved the change in access for the proposal. He determined that even when the 13 new PM peak hour trips are combined with the 47 trips that would be diverted from 128th Ave. NE to 125th Ln. NE, the impact would not be significant.
  - (5) Emergency service providers also reviewed the proposal pursuant to SEPA and found that it would not have significant adverse impacts on these public services.

- I. The Public Works Department recommends that the applicant remove and replace the failed portions of 125th Ln. NE and install a five-foot-wide sidewalk along the east side of the road from NE. 60th St. to the entrance to the new parking lot.

2. Conclusions:

- a. In addition to the applicant's proposals to meet the intent of special regulations 3 and 4, the applicant should also provide additional screening through use of a fence of sufficient height to block car headlights from shining into surrounding neighborhoods, and should see that the proposed building matches the existing facility in paint color and roof form.
- b. To reduce the impacts of the new building on the residential neighborhood, the exhaust fans in the new building should be oriented toward the north side of the facility to reduce the noise that extends into the neighborhood, and the fans should be on a timer that turns them off no later than 10:00 p.m. each night.
- c. Because the City's DNS for the proposal was not appealed, the Hearing Examiner is foreclosed from considering arguments concerning transportation issues (traffic and safety impacts) that were addressed in the TIA and reviewed pursuant to SEPA.
- d. The Hunt Club residents' concerns with the potential amount of traffic on the road over which they have an access easement are best addressed to a court rather than to the City.
- e. Neighborhood concerns about the driving behavior of Tennis Club members when exiting Club property are best addressed to the Tennis Club itself.
- f. With the provision of a sidewalk along 125th Ln. NE and the pedestrian path proposed across the property (discussed below), vehicular and pedestrian circulation to and from the Tennis Club property would be coordinated with neighboring properties "to the maximum extent possible".
- g. With the recommended conditions, the proposal complies with the requirements of KZC 60.182.030.

B. Right-of-Way Improvements

1. Facts:

- a. KZC 110.10 and 110.25 would require the applicant to make half-street improvements along the street frontage of the subject property.
- b. KZC 110.70 allows applicants to construct offsite pedestrian improvements in lieu of frontage improvements if the Public Works Director agrees that factors such as resulting pedestrian safety would mean such improvements are in the City's interest.
- c. KZC 110.6 allows the City to accept a sidewalk construction-in-lieu if "installation of the required improvement would require substantial

offsite roadway modifications," or if "other unusual circumstances preclude the construction of the improvements as required".

- d. Construction of frontage improvements would require substantial grading that could cause removal of significant trees and would not connect to any existing pedestrian or equestrian improvements.
  - e. KZC 110.70.3 allows the City to approve a modification to the nature or extent of any required improvement.
  - f. The applicant has submitted a plan for off-site improvements in lieu of frontage improvements to NE 60th St. The plan consists of a pedestrian/equestrian path along the north side of NE 60th St. adjacent to the elementary school. (*See Exhibit B.*) The plan has been endorsed by the Bridle Trails/South Rose Hill Neighborhood Association, the Lake Washington School District, and the Lake Washington Saddle Club.
  - g. The value of the improvements will be approximately \$132,000, which is approximately 75 percent of the value of the required project frontage improvements, in accordance with KZC 110.70.6.b.
  - h. The improvements will consist of a four-foot-wide vegetation buffer along the north edge of NE 60th St. but may be reduced to two feet in some areas due to topographic constraints. Street trees and/or shrubs with low-maintenance groundcover will be used. (*See Exhibit B.*) On the north side of the vegetative buffer, a 7- to 10-foot-wide pedestrian/equestrian pathway will be installed using an approved trail mix base suitable for year-round use by pedestrians and equestrians.
  - i. Although the intent is to construct a vegetative buffer and pathway along the north side of NE 60th St. from the east edge of Ben Franklin elementary school to 132nd Ave. NE, the total length of construction will be limited by the \$132,000 total value for the improvements.
  - j. The Public Works Director recommends approval of the proposed construction-in-lieu improvements to NE. 60th St.
  - k. KZC 110.70.5.c allows for a waiver street improvements along neighborhood access roads in zones with equestrian use.
  - l. The Public Works Department has approved a waiver of street improvements along 127th and 128th Avenues NE and NE 59th St., all of which abut the property and are within an equestrian use overlay.
2. Conclusion: With the recommended conditions, the proposed multi-use path along the north side of NE. 60th St. would meet Code requirements for right-of-way improvements.

C. Access – Walkways

1. Facts:

- a. KZC 105.18 provides pedestrian access requirements for new development.

- b. Pursuant to KZC 105.18, the applicant is proposing a pedestrian path that extends from the back of the new tennis building, beginning at 127<sup>th</sup> Ave NE, through the site, over the new parking lot, connecting to 125<sup>th</sup> Lane NE, and extending to NE 60<sup>th</sup> Street.
  - c. The proposed pedestrian path would connect a single-family neighborhood southeast of the Tennis Club, known as Flying Horseshoe Tracts, to NE 60th St.
2. Conclusion: With the installation of the proposed public pedestrian pathway, the proposal would meet the requirements of KZC 105.18.

D. Parking Requirements

1. Facts:

- a. Pursuant to SEPA, the applicant's transportation consultant submitted a parking study that shows a parking demand for the proposal of 99 parking stalls. (See Attachment 7 to Exhibit A, Enclosure 8.)
- b. The applicant proposes to provide 103 parking stalls plus space for overflow parking in the grass field on the property adjacent to the new parking lot. The field is presently used for the same purpose.
- c. The City's Transportation Engineer reviewed the parking study and observed that sight distance along NE. 60th St. is reduced when cars are parked along the street. Therefore, he recommended that during special events, or when the parking lot is full, the applicant put out signs instructing drivers not to park on the street or on 125<sup>th</sup> Ln. NE, and directing them to the overflow parking area. He also recommended that employees be required to park on site.
- d. The Tennis Club presently provides permanent full-time access to the vacant field for overflow parking. The field is also used for special event parking, with access via a gate on NE 60th St. and egress via a gate on 125th Ln. NE.
- e. Although the applicant is providing just four parking spaces more than the number required at peak demand, the plans do not show any access to the vacant field from the new parking lot for potential overflow parking during normal operations.

2. Conclusions:

- a. The applicant's plans show a sufficient number of parking stalls for the proposal. However, to insure that potential overflow parking does not occur along 125th Ln. NE or NE 60th St., the applicant should provide direct access from the parking lot to the vacant field on a permanent, full-time basis. The access should be designed to the requirements of the City, with special consideration given to the safety of pedestrians on the adjacent pedestrian path.
- b. During special Tennis Club events, the Club should provide access to the vacant field on the property for event parking via the gate on NE 60th St., and provide egress via the gate on 125th Ln. NE.

- c. The applicant should follow all requirements for parking lots as set forth in Chapter 105 KZC, and the parking recommendations of the City's Transportation Engineer.

E. Natural Features - Significant Vegetation

1. Facts:

- a. Chapter 95 KZC provides requirements for tree retention and tree plans. KZC 60.182.030 provides an additional special regulation 5 that requires existing natural vegetation to be maintained "to the greatest extent possible".
- b. Approximately 95 significant trees are growing on the parcel where the new structure and parking lot will be constructed.
- c. The applicant submitted a rationale for constructing the new building and parking lot in their proposed location. (*See Attachment 17.*)
- d. The applicant has submitted a tree plan, prepared by a certified arborist, that evaluates the trees and potential for tree retention. The report indicates that it may be possible to retain 17 trees, depending upon the results of "early root excavation" for the trees. The report does not include the information required by Chapter 95 KZC about offsite trees. (*See Attachments 4 and 5 to Exhibit A.*)

2. Conclusions:

- a. The applicant should submit an additional arborist report, including early root excavation results, for review by the City's Urban Forester prior to submitting a building or land surface modification permit. This plan should follow the requirements set forth in Chapter 95.30 KZC for tree retention plans and should include any offsite trees that may be affected by development of the site.
- b. Based on the results of the early root excavation, the applicant should submit a tree plan for review by the City's Urban Forester that evaluates final tree retention, with the goal of retaining existing significant trees where feasible.

VI. GENERAL ZONING CODE CRITERIA

- A. Fact: KZC 152.70.3 states that a Process IIB application may be approved if "it is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan," and "is consistent with the public health, safety, and welfare."

B. Conclusions:

- 1. With the recommended conditions, the proposal would comply with all applicable development regulations. Because such development regulations exist, no analysis of comprehensive plan compliance is required by KZC 152.70.3.
- 2. With the recommended conditions, the proposal would be consistent with the public health, safety, and welfare because it allows the Tennis Club to utilize its property potential, but in accordance with applicable City development regulations designed to mitigate impacts to the surrounding neighborhood and adjacent uses. The proposal also promotes the equestrian character of the neighborhood through construction of a multi-use path that will

accommodate equestrian traffic while providing safe passage for pedestrians and school children walking to and from Ben Franklin Elementary School.

VII. DEVELOPMENT STANDARDS

- A. Fact: Additional comments and requirements placed on the project are found on the Development Standards, Attachment 3 to Exhibit A.
- B. Conclusion: The applicant should follow the requirements set forth in Attachment 3 to Exhibit A.

**RECOMMENDATION**

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner recommends that the Council approve the application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 3 to Exhibit A, Development Standards, is provided to familiarize the applicant with some of the additional development regulations; it does not include all of the additional regulations.
2. The applicant shall install a fence of sufficient height and in a location on the property to block automobile headlights from shining into surrounding neighborhoods, and shall maintain the fence in good condition.
3. The applicant shall construct the proposed building with a roof form that matches that of existing buildings on the property and shall also paint it in a color to match those buildings.
4. The exhaust fans in the proposed building shall be oriented toward the north side of the facility in a manner that allows the least amount of noise to extend into the neighborhood. The exhaust fans shall also be connected to a timer that automatically turns them off no later than 10:00 p.m. each night.
5. Prior to submitting any permits, the applicant shall submit a report by a certified arborist who has performed or attended a "root excavation" for trees slated for retention in the tree retention plan and arborist report submitted for this project. The new arborist report shall be combined with a tree retention plan that adheres to all tree plan components required by Chapter 95 KZC and by the Planning Official, including offsite trees that may be affected by the development. The plan shall be reviewed and approved by the City's Urban Forester.
6. As part of any permit submission for the proposal:
  - a. If the trees along the east side of the new tennis structure cannot be retained, the applicant shall submit new plans that show a vegetative earthen berm on the east side of the structure, planted with sight-obscuring vegetation.

- b. Any changes to plant selection shown in the landscape plan shall be reviewed by the Planning Department for conformance with special regulations 3, 4, and 5 of KZC 60.182.030. Attachment 13 to Exhibit A shows a contingency plan that shall be followed to provide a sight obscuring landscape buffer if the significant trees along the east property line cannot be saved.
  - c. All ancillary uses shall operate within the hours of operation for the Tennis Club as stated in Attachment 14 to Exhibit A, and shall be accessory to the primary approved use as a membership tennis club. Expansion of any ancillary use shall require prior approval of the Planning Department
7. A modification is granted to the Tennis Club for sidewalk improvements. As part of the land surface modification permit, the applicant shall submit construction plans to the Public Works Department for the approved construction-in-lieu improvements on the north side of NE 60<sup>th</sup> St. that extend from the east edge of Ben Franklin Elementary school as far toward 132<sup>nd</sup> Ave NE as is feasible within the construction in lieu valuation of \$132,000. Additionally, instead of standard curb, gutter and sidewalk improvements, a modification is granted to build a single path with a 4-foot-wide landscape buffer, reduced to 2 feet in some areas due to topographic constraints, between NE 60<sup>th</sup> St. and the path. The applicant shall work with the Public Works Department to build the path with materials that can be utilized by pedestrians, school children, and equestrians, and for approval of the buffer plantings. The pedestrian path will vary in width from 7-10 feet, depending on topographic constraints, but should be reduced to 7 feet only in areas with topographic constraints that cannot feasibly be mitigated with fill material and a retaining wall, as determined by the Public Works Director.
8. Prior to obtaining a Certificate of Occupancy, the applicant shall install a public pedestrian pathway, as shown on the plans, extending from 127<sup>th</sup> Ave NE to NE 60<sup>th</sup> Street. The path shall be built per Public Works Standards as found in Attachment 3 to Exhibit A. The path shall remain open to the public, and the applicant shall submit a public pedestrian easement in a form approved by the City Attorney.
9. During special Tennis Club events, the Club shall put out signs to instruct attendees not to park on 125<sup>th</sup> Lane NE, 60<sup>th</sup> Street NE or within the neighborhoods surrounding the Tennis Club. Attendees shall be instructed to park either in the proposed club parking lot or on the vacant field owned by the Club. Additionally, the Tennis Club shall instruct employees to park on site. The applicant shall follow all requirements for parking lots set forth in Chapter 105 KZC and show those requirements on any plans submitted
10. The applicant shall revise the plans to provide direct access from the proposed parking lot to the adjacent vacant field owned by the Tennis Club. Such access shall be designed to City standards and subject to approval by the Public Works Department, and shall remain open at all times when the club is in operation.
11. During special Tennis Club events, the Club shall provide access to the vacant lot on the property for event parking via the gate on NE 60<sup>th</sup> St.,

and provide egress from the lot via the gate on 125th Ln. NE. Access from NE 60<sup>th</sup> St. must meet site distance requirements and be approved by the Public Works Department.

12. Under the direction of the Public Works Department, the applicant shall remove and replace the failed portions of the surface of 125th Ln. NE, and install a five-foot-wide sidewalk along the east side of 125th Ln. NE from NE 60th St. to the entrance to the new parking lot.

Entered this 26<sup>th</sup> day of February, 2010.

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Sue A. Tanner  
Hearing Examiner

### **SUBSEQUENT MODIFICATIONS**

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

### **CHALLENGES AND JUDICIAL REVIEW**

The following is a summary of the deadlines and procedures for challenges. Any person wishing to file or respond to a challenge should contact the Planning Department for further procedural information.

#### **CHALLENGE**

Section 152.85 of the Zoning Code allows the Hearing Examiner's recommendation to be challenged by the applicant or any person who submitted written or oral comments or testimony to the Hearing Examiner. A party who signed a petition may not challenge unless such party also submitted independent written comments or information. The challenge must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., \_\_\_\_\_, seven (7) calendar days following distribution of the Hearing Examiner's written recommendation on the application. Within this same time period, the person making the challenge must also mail or personally deliver to the applicant and all other people who submitted comments or testimony to the Hearing Examiner, a copy of the challenge together with notice of the deadline and procedures for responding to the challenge.

Any response to the challenge must be delivered to the Planning Department within seven (7) calendar days after the challenge letter was filed with the Planning Department. Within the same time period, the person making the response must deliver a copy of the response to the applicant and all other people who submitted comments or testimony to the Hearing Examiner.

Proof of such mail or personal delivery must be made by affidavit, available from the Planning Department. The affidavit must be attached to the challenge and response letters, and delivered to the Planning Department. The challenge will be considered by the City Council at the time it acts upon the recommendation of the Hearing Examiner.

#### **JUDICIAL REVIEW**

Section 152.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within twenty-one (21) calendar days of the issuance of the final land use decision by the City.

### **LAPSE OF APPROVAL**

The applicant must submit to the City a complete building permit application approved under Chapter 125 within four (4) years after approval of the Final PUD, or the lapse provisions of Section 152.115 will apply. Furthermore, the applicant must substantially complete construction approved under Chapter 125 and complete the applicable conditions listed on the Notice of Approval within six (6) years after approval of the Final PUD, or the decision becomes void.

#### **TESTIMONY:**

The following persons testified at the public hearing:

**From the City:**

Susan Lauinger, Project Planner

Rob Jammernan,

Development Engineering Mgr.

Dept. of Public Works

Thang Nguyen,

Transportation Engineer

Dept. of Public Works

**From the Applicant:**

Larry Ho, Architect

Chris Forster, Professional Engineer

Andrew Held

Brent Carson, Attorney-at-law

**From the Public:**

Jim McElwee

Fred Fredrickson

Robin Jones

Elaine Spencer, Attorney-at-law

**EXHIBITS:**

The following exhibits were offered and entered into the record at the public hearing:

- A. Department of Planning and Community Development Staff Advisory Report dated February 8, 2011, with 18 attachments
- B. Update to Attachment 16 to Exhibit A.
- C. Addendum to Exhibit A with nine attached public comment letters
- D. Comment letters from 23 students at Ben Franklin Elementary School
- E. Comment letters from Ben Franklin Elementary School PTA and Glen G. Simmons
- F. E-mail from Ellen McMahon to Andrew Held dated November 29, 2006
- G. Andrew Held PowerPoint presentation
- H. Letter from Central Park Tennis Club to Central Park Tennis Club Neighbors dated August 17, 2010
- I. 1973 Easement document
- J. Letter from Central Park Tennis Club to Teresa J. Swan dated August 31, 1987
- K. Letter from Teresa J. Swan to Central Park Tennis Club dated February 10, 1988
- L. Ten-minute DVD of traffic on NE 60th St. associated with Ben Franklin Elementary School
- M. Full-length DVD of traffic on NE 60th St. associated with Ben Franklin Elementary School
- N. Copy of decision in *Colwell v. Etzell*, 119 Wn.App. 432, 81 P.3d 895 (2003).
- O. Annotated photograph of map associated with notice of application
- P. Declaration of Irene Campbell regarding traffic counts for the Central Park Tennis Club
- Q. Annotated photographs of parking along NE 60th St.
- R. Annotated copy of Attachment 7 to Exhibit A
- S. Annotated copy of Attachment 22 Exhibit A



**KIRKLAND HEARING EXAMINER**  
**February 17, 2011**

**1. CALL TO ORDER**

Hearing Examiner Sue Tanner called the meeting to order at 7:00 p.m.

Members Present: Sue Tanner - Hearing Examiner.

Members Absent: None.

Staff Present: Susan Lauinger - Planner, Jeremy McMahan - Planning Supervisor,  
Rob Jammerman - Development Engineering Manager, Thang Nguyen  
- Transportation Engineer, and Jeannie Dines - Recording Secretary.

**2. PUBLIC HEARINGS**

**A. Central Park Tennis Club, File No. ZON10-00022, Address 12630 NE 59th Street**

Hearing Examiner Sue Tanner opened the public hearing at 7:00 p.m. She provided the file number ZON10-00022, and address 12630 NE 59th Street. She described the procedure for the hearing, advising she will provide a written recommendation to the City Council within 8 calendar days.

An audience member raised a procedural questions regarding cross examination.

Ms. Tanner swore in Planner Susan Lauinger. Ms. Lauinger submitted the following exhibits:\*

Exhibit 1: Staff Report with attachments

Exhibit 2: Replacement of Staff Report Attachment 16, a plan view from Blue Line of sidewalk improvements

Exhibit 3: Addendum to Staff Report that includes 8 additional comment letters

Exhibit 4: Letters from students at Ben Franklin Elementary

Exhibit 5: Letters from Ben Franklin PTA President and Glen Simonds

Ms. Lauinger presented the Staff Report regarding the Central Park Tennis Club's request to construct a new indoor tennis court which displaces the existing parking lot, construct a new 103-stall parking lot, close the existing access from 128th and provide access from 125th Lane NE, a private access easement owned by the CPTC that currently serves as the main access for the Hunt Club.

She described the SEPA review and Determination of Non-Significance issued by the City that was not appealed. Staff recommends approval of the CPTC proposal with ten conditions.

\* Note - The Hearing Examiner subsequently changed exhibit references from numerical to alphabetical, ex. 1=a, 2=b etc.

Ms. Tanner asked questions about the sidewalk on 125th Lane NE, road materials, and access to the vacant lot.

Elaine Spencer, attorney representing the Hunt Club Homeowner Association, 2801 Alaskan Way, Ste. 300, Seattle, asked questions of Ms. Lauinger regarding the private access easement to the Hunt Club.

Ms. Tanner swore in Development Engineering Manager Rob Jammerman who responded to questions posed by Ms. Spencer regarding road standards.

Ms. Tanner swore in Transportation Engineer Thang Nguyen who responded to questions by Ms. Spencer regarding trip generation, sight distance, and parking.

Ms. Spencer provided the Hearing Examiner and Mr. Nguyen pages from the Parking Study and asked questions about parking.

Ms. Tanner swore in Larry Ho, Freiheit and Ho Architects, 10230 NE Points Drive, Ste 300, Kirkland. Mr. Ho described the history of the CPTC, operation, buildings, property for expansion, access, surrounding uses, proposed building, parking, access and sidewalks.

Ms. Tanner inquired about access to the overflow parking area.

Ms. Spencer asked Mr. Ho about access to the grass overflow parking area. She provided the Hearing Examiner the Parking Plan in the Staff Report.

Ms. Tanner swore in Chris Foster, Project Manager, Transportation Engineering NW, 816 6th Street South, Kirkland, who reviewed findings in the Traffic Impact Analysis and the Parking Demand Study.

Ms. Tanner swore in Andy Held, 5505 127th Avenue NE, Kirkland. Mr. Held described public involvement and outreach done by CPTC regarding the proposed expansion. He described how the project evolved as a result of public input, and the history of the relationship between the CPTC and the neighborhood. He submitted the following exhibits:

Exhibit 6: Letter from the City's Neighborhood Traffic Program Coordinator to CPTC dated November 29, 2006

Exhibit 7: PowerPoint regarding public involvement

Exhibit 8: Letter from CPTC inviting neighbors to meeting

Ms. Tanner swore in Brent Carson, Gordon Derr, 2025 1st Avenue, Seattle. Mr. Carson reviewed and submitted the following exhibits:

Exhibit 9: 1973 easement document

Exhibit 10: Letter dated August 1987 from the CPTC General Manager to the City when the Hunt Club plat was being considered

Exhibit 11: Letter dated February 10, 1988 from the City to the CPTC stating the 22' foot roadway would be sufficient to accommodate traffic from both developments

Mr. Carson requested the Hearing Examiner recommend approval of their proposal.

Ms. Spencer asked questions of Mr. Held regarding the number of CPTC members, number of tennis courts, use of courts, and snack bar. She asked questions of Mr. Foster regarding the Parking Study and Traffic Study.

Mr. Carson asked questions of Mr. Foster.

Ms. Tanner swore in each member of the public before they spoke.

Jim McElwee, President, South Rose Hill/Bridle Trails Neighborhood Association, relayed the Association's appreciation for improvements to NE 60th and expressed interest in limiting traffic on 128th Avenue NE.

Robin Jones, 5811 124th Ct NE, Kirkland, President, Kirkland Hunt Club Neighborhood Association, asked questions regarding the entrance to the overflow parking and the proposed new parking lot. The Hunt Club Homeowners Association did not appeal the SEPA Determination due to a lack of funds.

Fred Fredrickson, 5726 125th Lane NE, Kirkland, Vice President Kirkland Hunt Club Homeowners Association, provided a video of afternoon traffic near Ben Franklin Elementary. The Hunt Club does not object to proposal, they object to the use of 125th Lane NE. He submitted the following exhibits:

Exhibit 12: Ben Franklin traffic video (edited)

Exhibit 13: Ben Franklin traffic video (full length)

Exhibit 14: Washington Court of Appeals case Colwell v. Etzell

Exhibit 15: Map included in public notice

Exhibit 16: Signed declaration from Irene Campbell regarding traffic count she conducted on January 24, 2011

Exhibit 17: Photographs taken of parking on NE 60th on February 16, 2011

Mr. Fredrickson also provided suggestions related to the stop sign at 125th Lane and creating an entrance from NE 60th to the overflow parking area.

At Elaine Spencer's request, Ms. Tanner enter the pages from the Traffic Study as Exhibit 18 and the color version of the Parking Plan as Exhibit 19.

Ms. Spencer questioned whether vehicular and pedestrian circulation has been coordinated with other properties in vicinity to the maximum extent possible as there are other options that would preserve trees and not place all the traffic on 125th Lane. She disputed the findings of the Traffic Study and suggested the following conditions: require parking for events be via a gate on NE 60th, if the CPTC disposes of the grass area they not be allowed to have events that require overflow parking, require redesign of the new parking lot to provide access onto the grass field for overflow, and require the CPTC hire a consultant to prepare a transportation management program with the Hunt Club.

At 9:39 p.m. Ms. Tanner declared a brief recess to allow staff to confer.

At 9:45 p.m. Mr. Carson requested 15 minutes to prepare their rebuttal.

The meeting was reconvened at 10:01 p.m.

Ms. Lauinger provided responses to questions asked during the hearing.

Mr. Foster provided rebuttal regarding calculation of peak hour trip generation. Mr. Held provided rebuttal regarding school traffic, traffic counts, coordination with adjacent property owners, safety on 125th Lane, and parking. Mr. Carson provided rebuttal regarding traffic studies done by Hunt Club homeowners versus the professional traffic study and the SEPA determination that was not appealed. He requested the Hearing Examiner recommend approval consistent with staff's recommendation.

Ms. Tanner closed the hearing at 10:24 p.m.

3. ADJOURNMENT

The meeting was adjourned at 10:24 p.m.

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Planning Staff

RESOLUTION. R-4875

A RESOLUTION OF THE CITY OF KIRKLAND APPROVING THE ISSUANCE OF A PROCESS IIB PERMIT AS APPLIED FOR IN DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT FILE NO. ZON10-00022 BY THE CENTRAL PARK TENNIS CLUB BEING WITHIN A PLA16 ZONE, AND SETTING FORTH CONDITIONS TO WHICH SUCH PROCESS IIB PERMIT SHALL BE SUBJECT.

WHEREAS, the Department of Planning and Community Development has received an application for a Process IIB permit, filed by LARRY HO OF FREIHEIT AND HO ARCHITECTS, representing the owner of said property described in said application and located within PLA16 Zone; and

WHEREAS, pursuant to the City of Kirkland's Concurrency Management System, KMC Title 25, a concurrency application has been submitted to the City of Kirkland, reviewed by the responsible Public Works official, the concurrency test has been passed, and a concurrency test notice issued; and

WHEREAS, pursuant to the State Environmental Policy Act, RCW 43.21C, and the Administrative Guideline and local ordinance adopted to implement it, an environmental checklist has been submitted to the City of Kirkland, reviewed by the responsible official of the City of Kirkland, and a Determination of Non-significance reached; and

WHEREAS, said environmental checklist and determination have been available and accompanied the application through the entire review process; and

WHEREAS, the application has been submitted to the Hearing Examiner who held hearing thereon at the regular meeting of February 17, 2011; and

WHEREAS, the Hearing Examiner after the public hearing and consideration of the recommendations of the Department of Planning and Community Development did adopt certain Findings, Conclusions, and Recommendations and did recommend approval of the Process IIB permit subject to the specific conditions set forth in said recommendation; and

WHEREAS, the City Council, in regular meeting, did consider the environmental documents received from the responsible official, together with the recommendation of the Hearing Examiner;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The findings, conclusion, and recommendation of the Hearing Examiner as signed by the Hearing Examiner and

filed in the Department of Planning and Community Development File No. ZON10-00022 are adopted by the Kirkland City Council as though fully set forth herein.

Section 2. The Process IIB permit shall be issued to the applicant subject to the conditions set forth in the recommendations herein above adopted by the City Council.

Section 3. Nothing in this resolution shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinance, or regulations applicable to this project, other than expressly set forth herein.

Section 4. Failure on the part of the holder of the permit to initially meet or maintain strict compliance with the standards and conditions to which the Process IIB permit is subject shall be grounds for revocation in accordance with Ordinance 3719, as amended, the Kirkland Zoning Ordinance.

Section 5. A complete copy of this resolution, including Findings, Conclusions and Recommendations adopted by reference, shall be certified by the City Clerk who shall then forward the certified copy to the King County Department of Assessments.

Section 6. A copy of this resolution, together with the findings, conclusions, and recommendations herein adopted shall be attached to and become a part of the Process IIB permit or evidence thereof delivered to the permittee.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2011.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk